

### REMARKS

The Examiner is thanked for the Official Action of December 15, 2004. This request for reconsideration is intended to be fully responsive thereto.

#### Claim Numbering

The Examiner noted that the originally submitted claims were numbered improperly. The Examiner renumbered claims 3-7 as 2-6. Applicant does not object to this correction.

#### Information Disclosure Statement

A proper information disclosure statement is attached hereto.

#### Drawings

The Examiner stated that the drawings failed to comply with 37 CFR 1.84(p)(5). The Applicant has inserted reference number "22" into the specification and has corrected "118" to read "18" as is shown in the corrected drawings submitted herewith.

#### Specification

Examiner objected to the use of the term "type" throughout the specification. The specification has been amended to comply with the Examiner's recommendation to amend "type" to "tape".

#### Rejections under 35 U.S.C. § 103

Claims 1-3, 5 and 6 were rejected under 35 U.S.C. § 103 as being unpatentable over 6,276,071 to Khachatourian (hereinafter 071) in view of 6,182,916 to Lin (hereinafter 916). Applicant respectfully disagrees.

Under 103 the claimed invention must be considered as a whole; the references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination; the references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed

invention; and a reasonable expectation of success is the standard with which obviousness is determined. MPEP 2141. All of the above tenets have not been met.

The 071 patent does not disclose a uniform covering. It instead discloses "the top wall 22 of the hosing is preferably provided with an upper elastomeric slip resistant material, such as a rubberized member N<sub>1</sub>. A comparable lower elastomeric slip resistant member N<sub>2</sub> is provided along the major portion of the bottom wall 24 (column 8, lines 46 to 52; Fig. 1). Clearly from the description and Fig. 1 the 071 patent discloses a covering that must be manufactured in two pieces and likewise installed or affixed to the tape rule in two separate steps. This requires more complex and costly manufacturing because two pieces must be made. Further, the additional assembly steps causes the incurrence of additional manufacturing expenses.

Further, the 071 patent does not disclose the uniform covering as protection for the tape, but rather for gripping and comfort. 071 clearly states "to enhance the comfort and minimize slipping of the tool while in use..." and there is never a recitation of the present object, i.e., to provide a damping effect. The 071 expands upon this point by stating that the covering is only provided in areas typically in contact with the user's hand.

With respect to 916, Applicant respectfully disagrees with the Examiner's reading of the patent at column 1, lines 50-57. The Examiner left out the remainder of the sentence when quoting 916. In its' entirety it reads "To achieve the above mentioned objects, the tae housing of the present invention, as a conventional product, made of a single material, for example ABS which s vulnerable to impact, is entirely or partially, for example, only at the turning corners, covered with an impact buffer and slip resistant layer formed of an elastic material so as to protect the housing from being deformed or even destroyed by impact." The present invention provides more complete coverage of the product than does 916 since 916 states that the covering is only at the turning corners of the tape.

With respect to the shape of the product, Applicant contends that it would not have been obvious to combine the two previous patents. Further, the change in shape of the present invention has criticality. The present configuration provides better gripability, better control of the tape, more protection and better comfort.

Therefore, the shape has criticality.

Claim 5 was rejected in further view of Li. Based on the above argument Applicant believes that the Examiner's rejection of claim 5 has been overcome.

#### Conclusion

In view of the above, Applicant respectfully submits that each of claims 1 through 6 recites statutory subject matter that is novel and new, is subject matter of the present invention and is fully supported in the disclosure of the present invention, and therefore respectfully requests that claims 1 through 6 be found allowable and that this application be passed to issue. No new matter has been included.

If for any reason, the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact the Applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper has not been timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 50-2069, referencing docket number 040-307.

Respectfully submitted,

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